



**ALLIANCE
FOR
COMMUNITY
MEDIA**

NATIONAL OFFICE
666 11th Street, NW,
Suite 740
Washington, DC
20001-4542

Voice: 202.393.2650
Fax: 202.393.2653
E-mail:

raiseeveryvoice@yahoo.com

Testimony Of

Harry “Hap” Haasch

On Behalf of

THE ALLIANCE FOR COMMUNITY MEDIA

On

November 3 Staff Draft Bill

The U.S. House of Representatives Committee
On Energy and Commerce, Subcommittee
On Telecommunications and the Internet

November 9, 2005

Good morning, Chairman Upton, Mr. Markey and Members of the Subcommittee. I am Harry “Hap” Haasch, Executive Director of the Community Access Center serving the cities of Kalamazoo and Parchment and the townships of Oshtemo, Comstock and Kalamazoo, Michigan. I want to thank Chairman Upton for inviting me to testify today on behalf of the Alliance for Community Media, a national membership organization representing 3,000 public, educational and governmental (“PEG”) cable television access centers across the nation. Those centers include 1.2 million volunteers and 250,000 community groups and organizations that provide PEG access television programming in local communities across the United States. Local PEG programmers produce 20,000 hours of new programs per week – that’s more new programming than all of the broadcast networks combined. As reported in yesterday’s *New York Times*:

“For every hour of “Desperate Housewives” on ABC, the nation’s 3,000 public-access television channels present dozens of hours of local school board meetings, Little League games and religious services. Not to mention programs like “The Great Grown-Up Spelling Bee,” a spelling bee for adults that raises money for the Kalamazoo, Mich., public library....”

The Center for Creative Voices recently released a report that shows that as large group owners control more local broadcast stations in a market, local programming disappears, replaced by nationally produced programs that seek to draw larger audiences through more inflammatory material. Media consolidation furthers this trend. The report also found, however, that locally controlled programming is more responsive to community needs.

Congress has traditionally recognized the need to foster localism in communications. At a time when studies show that less than 0.5% of programming on commercial television is local public affairs, PEG centers serve the people in your home town, city, and district.

The November 3 Staff draft bill, however, would directly and substantially threaten the future of PEG programming throughout the nation. My testimony focuses only on the draft bill’s

provisions that would most directly impact PEG funding and capacity. There are other provisions in the draft bill that the Alliance and its members find troubling and we support the testimony of Councilmember Praisner on behalf of local government organizations on those issues.

I. PEG PROGRAMMING – THE LAST REDOUBT OF LOCALISM.

The federal Cable Act authorizes local franchising authorities to require cable operators to set aside capacity on their systems for PEG use,¹ and to require cable operators to provide, over and above the 5% cable franchise fee, funds for PEG capital equipment and facilities.² The amount of PEG capacity that is set aside on a particular system, as well as the level of funding provided by the cable operator, is locally determined, based on each community's determination of its own particular cable-related community needs and interests.³

The PEG provisions of the Cable Act are intended to provide all members of a community with access to the medium of television. Indeed, PEG is the only way that average citizens and community groups have assured access to communicate to their community via television. Particularly in this era of mass media consolidation, PEG access ensures that locally-produced programming, of interest to and tailored to the particular local needs of the community, has an outlet on television.

PEG access has served that purpose exceedingly well. Among other things, PEG provides:

¹ 47 U.S.C. § 531.

² 47 U.S.C. § 542(g)(2)(C).

³ See, 47 U.S.C. §§ 546(a)(4)(B) and 546(c)(1)(d).

- The only **unmediated coverage Congress Members** receive in the home district. A number of members of Congress use Public Access channels to communicate directly with their constituents.
- **Church Outreach** -- Religious programming represents 20-40% of programming at most Public Access centers. For the shut-in and infirm, this is often the only means by which they can participate in local services.
- **Coverage of local cultural activities**, particularly in smaller communities that do not receive commercial media attention. Examples include coverage of local historical, art and music events.
- The ability to maintain the **local cultural identities of our towns, cities and counties**. Examples include coverage of local high school football games, local parades and other civic events.
- **Local Governmental Programming** – Coverage of city/town/county council meetings, and local police, fire, and public safety programming.
- **Local Education Programming** – Cablecast of public school and local college educational programming.
- **Technical training and jobs**. PEG operations employ more people of color in management and technical positions than in all commercial media industries combined. PEG centers also provide vocational training in television camera and production work for local high school and college students.
- **News for military families** – Army Newswatch is the most-syndicated program on PEG channels, with carriage on over 300 PEG channels nationwide.

Let me provide you with some specific examples:

The Kalamazoo Community Access Center (“CAC”) has provided PEG access programming for 25 years. CAC operates 5 PEG channels providing 2,100 programming hours per month. For 16 years, CAC has provided “live” multi-camera coverage of the annual United States Tennis Association’s Boys 16 and 18 Championships from the campus of Kalamazoo College. The coverage is dawn-to-dusk for 11 days, and requires hundred of volunteer hours in challenging weather conditions. This coverage is made possible by the availability and use of a fiber institutional network that links the Kalamazoo College campus and the CAC master control facility. CAC volunteer Dave Williams helped produce the “Banned Books ReadOut” program that featured a selection of well-known local personalities reading selections from a number of popular books, including Ray Bradbury’s *Fahrenheit 451*, Maya Angelou’s *I Know Why The Caged Bird Sings*, and Mark Twain’s classic *Huckleberry Finn*. The program was made possible with the cooperation of the ACLU – SW Michigan Chapter and the Kalamazoo Public Library.

At the Community Television Network in Ann Arbor, Michigan, the public access center created a program in partnership with National Kidney Foundation focused on the risks of kidney disease among African American men and women. African Americans are seven times more likely to get kidney disease compared to white Americans. The award winning program has been cablecast on PEG channels throughout the state of Michigan.

In Illinois, a fledgling statewide public affairs network called *The Illinois Channel* originates in part out of Rep Shimkus’ District, bringing C-SPAN type of coverage of state government to nearly 1.3 million Illinois cable homes. The entire distribution network of *The Illinois Channel* is due to the existence of PEG channels.

During the 2004 election season, Chicago Access Network Television (“CAN TV”) ran 160 hours of local election coverage, including information on candidates for presidential, senatorial, congressional, and local judicial elections, as well as in-depth interviews by *The Illinois Channel* with state district candidates. CAN TV devotes its resources to local programming with an annual budget that wouldn’t buy a single thirty-second commercial during the Super Bowl. Those modest resources are put at risk by this legislation. In an earlier article on CAN TV’s election coverage, the *Chicago Tribune* reported that, “Chicago’s five access channels bring no small measure of serious politics, especially involving those large shut out heretofore from mainstream commercial media, including blacks, Hispanics, and, of course, Republicans.” (We *are* talking about Chicago.)

Media Bridges in Cincinnati and Hamilton County, Ohio, cablecasts more than 15,000 hours of local programming produced by and for greater Cincinnatians by organizations like the Contemporary Arts Center, the Lifecenter Organ Donor Network and Literacy Network of Greater Cincinnati and more than 80 area religious organizations. According to a 2003 study, the 96 cents per subscriber per month in PEG access support that provides the majority of Media Bridges’ financial support is multiplied almost seven times to provide an economic impact in greater Cincinnati of more than \$5.3 million per year. This draft bill would eliminate that support.

In New Jersey, PEG stations are working with county governments to incorporate emergency public notification via the over 150 stations throughout the state. The system will allow communication from any emergency command location or mobile disaster unit to the communities effected via any specific town PEG station, a group of stations covering a specific area, or all the stations covering an entire county. This system will have the ability to interrupt

programming instantly with text notices that include health hazard notifications, aid station locations, and evacuation instructions. The notices can also be removed and/or updated as needed with the same efficiency. This system will provide a vital and much needed service that will fill the communications gap that local governments need keep the public informed and safe in the event of any emergencies from a local level crisis to supporting national disaster organizations through the use of PEG stations. This capability will be lost under the draft bill as a result of the reduced PEG funding and the orphaning of institutional networks systems.

Community Television of Knoxville, Tennessee (CTV), has served the residents of Knoxville and Knox County for 30 years. For only \$24 per year, the typical volunteer community producer at CTV receives training and unlimited use of PEG equipment (including cameras, studios, and editing equipment) to produce and air their own television programs. There is no other means by which community residents can find such an inexpensive way to effectively reach 110,000 community households with information pertaining to local issues, local resources and matters of interest to them, from support for victims of Alzheimer's disease and their families, to foster care, law enforcement, and youth recreation.

Every week, Cambridge (Massachusetts) Community Television produces 50.5 hours of live programs on its BeLive set – shows that include *Crime Time*, produced by the Public Information Officer of the Cambridge Police Department, *Bed Time Stories*, *Muslims Inside and Out*, *Local Heroes*, and two smoking programs, one against, and one for smokers' rights. Even though Cambridge is a city of over 100,000 residents, it is in the shadow of the Boston media market, and the commercial television stations and daily newspapers consequently do not cover the local elections. As a result, Cambridge Community Television's election programming is the only place that residents can tune in to learn more about local candidates.

In southern Oregon, Rogue Valley TV is the PEG access organization for four cities and three counties. Since 1999, the Medford Police Department has produced monthly the Medford Police Department's *Rules of the Road*, a one-hour live call-in program primarily on traffic and pedestrian laws. The police average 30 phone calls per show as Medford residents jam phone lines waiting to talk with their local police officers. Without use of institutional network fiber and equipment purchased with PEG funds, the program would never reach homes in Medford, Eagle Point and Jackson County, and the phones would be silent.

Albuquerque, New Mexico's Sandia Prep School just sent 30 students through *Quote...Unquote's* public access television orientation as this top academic school begins its third year of "Speak Out." Students produce the program and provide all technical work on the series that features high school debates, dance and music performances, including the orchestra. The student producer from an earlier year used his experience to win a scholarship to a top college. Sandia students are dependent on equipment purchased from a separate cable franchise PEG capital fund; their program is sent to subscribers through the cable system's fiber optic institutional network. *Quote...Unquote* training, facilitation and programming staff are funded from cable television franchise fees, which would be substantially reduced by this legislation.

II. THE NOVEMBER 3 STAFF DRAFT WOULD SUBSTANTIALLY REDUCE, AND ULTIMATELY ELIMINATE, FUNDING FOR PEG ACCESS.

PEG access is only possible if there are adequate funds to support it. The overwhelming majority of PEG funding comes from two sources: (1) monetary and in-kind support for PEG capital facilities and equipment from the cable operator over and above the 5% cable franchise fee that is required by the local franchise agreement; and (2) contribution by the local franchising authority of a portion of the 5% cable franchise fee to PEG.

In Kalamazoo, for example, PEG funding comes from both of those sources: the Access Center receives 35 cents/month/subscriber for PEG support and, in addition, the communities contribute 40% of their franchise fees to the Access Center. In Cincinnati and Hamilton County, Ohio, the Access Center receives 96 cents/subscriber/month in PEG support from the cable operator as required by the local franchise agreement.

The November 3 House Staff draft bill, however, would eliminate one of those sources of funds to support PEG, and substantially reduce the other.

A. The Loss of PEG Capital Support Obligations.

Unlike the Cable Act, which allows local franchising authorities to require a cable operator to provide PEG access capital facilities and equipment funding over and above the 5% franchise fee, the draft bill would exempt broadband video service providers from such an obligation.⁴ Moreover, the draft bill's PEG provisions place no obligation on, or ability to require, broadband video service providers to fund PEG access production facilities and equipment.⁵ The result is clear: Unlike incumbent cable operators, broadband video service providers under the draft bill cannot be required to provide the local community with any monetary support for PEG beyond the 5% franchise fee. That would also mean that, over time, the incumbent cable operator would no longer provide such PEG support, as it would no doubt refuse to continue to incur a cost from which its broadband video service provider competition has been immunized. Alternatively, the incumbent cable operator would eventually transform itself into a broadband video service provider, thereby freeing itself directly from its PEG support obligations.

⁴ Compare 47 U.S.C. § 542(g)(2)(C) with Draft Bill, § 2(a)(9) (PEG access grants not excluded from "franchise fee" definition).

⁵ See Draft Bill, § 304(b).

B. A Reduced Franchise Fee Revenue Base Would Reduce Local Franchising Authority Financial Support for PEG.

The draft bill, unlike the Cable Act,⁶ restricts the “gross revenue” base for the 5% franchise fee to revenue “collected from subscribers.”⁷ As a result, non-subscriber revenues, from sources such as advertising and home shopping channels, would be excluded from the franchise fee revenue base under the draft bill. That would represent anywhere from a 10% to 15% reduction in the franchise fees that local governments currently receive under the Cable Act. And non-subscriber revenues – especially advertising revenues – are one of the fastest growing revenue streams in the current cable franchise fee revenue base. In those communities, like Kalamazoo and many others elsewhere, where the local government contributes a portion of its franchise fee revenues to fund PEG access operations, the reduced franchise fees caused by the draft bill would result in a substantial reduction in the funds that PEG access centers currently receive from cable franchise fees.

The combined elimination of PEG grants and the substantial reduction of franchise fee revenue available for PEG use that would occur under the draft bill would result in a funding reduction for PEG access that would be nothing short of catastrophic for many, if not most, PEG access centers across the nation.

III. THE NOVEMBER 3 STAFF DRAFT WOULD LIMIT PEG CAPACITY TO CURRENT LEVELS, THEREBY DEPRIVING COMMUNITIES OF THE ABILITY TO TAILOR PEG CAPACITY TO CHANGING, AND OFTEN GROWING, COMMUNITY NEEDS.

Under the Cable Act, the number of channels set aside for PEG use is determined individually by each local community based on its particular PEG needs and interests. Perhaps

⁶ 47 U.S.C. § 542(b).

⁷ Draft Bill, § 303(d)(3).

more importantly for the discussion here, the current Cable Act allows local communities, through the cable franchise renewal process, to reassess their PEG needs periodically, and to increase the channel capacity set aside for PEG where demand warrants.

As you might expect, the number of PEG channels set aside varies widely from community to community. This is precisely the sort of local self-determination and flexibility that one would expect – and that should be cherished – if the localism that PEG programming embodies is to survive. The draft bill, however, would short-circuit this process. It would essentially cap PEG access capacity at current levels.⁸ That would mean that local communities would be locked into current PEG capacity limits – limits that were often set years ago when the incumbent cable operator’s franchise was last renewed.

But there is no reason to suppose that PEG capacity needs are static. In fact, those needs typically grow over time, as the local community’s interest in PEG programming grows, and the volume of PEG programming grows.

The draft bill’s effective ceiling on PEG access capacity would have a particularly harsh effect on communities with older franchise agreements, many of which may currently have relatively few channels set aside for PEG. The draft bill would deprive these communities of the ability to increase PEG access capacity and thus forever sentence them to inadequate PEG capacity to meet their future needs.

⁸ Draft Bill, § 304(b)(1)(A). It might be argued that § 304(b)(1)(A) allows for PEG capacity growth, since it requires the broadband video service provider to provide PEG capacity comparable to the incumbent cable operator, and the incumbent operator’s PEG capacity obligations might be increased in subsequent cable franchise renewal proceedings. But that would not likely occur if the draft bill became law because: (1) the incumbent cable operator would probably no longer be willing to agree to increase PEG capacity without an effective franchise process assurance that the broadband video service provider has to match that increase; and (2) the incumbent operator would, over time, likely become a broadband video service provider itself and thus become immune from the Cable Act renewal process.

CONCLUSION

Across the nation, PEG access centers put television in the hands of the people, not as passive consumers, but as speakers and information providers. As Chairman Upton observed back in 1999:

“The Community Access Center provides a diverse programming schedule that can’t be found anywhere else, reflecting a cross-section of society and offering an empowering media voice to those who may otherwise not have a chance to be heard.”

In its current form, the draft legislation threatens to silence these voices because it would undermine the continued financial viability of all PEG centers nationwide. We therefore ask that the draft be revised to ensure the continued viability of PEG access, the only truly genuine form of localism and diversity in the television medium. The Alliance looks forward to working with you in making the necessary changes to the legislation.

Thank you for the opportunity to speak to you today, and I would be happy to answer any questions you may have.